

# HOUSE BILL REPORT

## HB 3276

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**As Reported by House Committee On:**  
State Government Operations & Accountability

**Title:** An act relating to creating a task force to study voting rights and restrictions of felons.

**Brief Description:** Creating a task force to study voting rights and restrictions of felons.

**Sponsors:** Representatives Darneille, Upthegrove, Kagi, Hunt, Nixon, Hasegawa, Williams, Dickerson and Green.

**Brief History:**

**Committee Activity:**

State Government Operations & Accountability: 2/1/06 [DP].

**Brief Summary of Bill**

- Creates a task force to study standards for restricting and restoring voting rights of felons.

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**HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY**

**Majority Report:** Do pass. Signed by 9 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt, McDermott, Miloscia, Schindler and Sump.

**Staff:** Kathryn Leathers (786-7114).

**Background:**

The Washington State Constitution prohibits people convicted of an "infamous crime" from voting unless their civil rights are restored. "Infamous crime" is defined as a crime punishable by death or imprisonment in a state correctional facility; i.e., a felony. Only persons convicted of a felony may be sentenced to a state correctional facility.

A criminal sentence pursuant to a felony conviction may include: a term of incarceration; a term of supervision in the community (community custody); an obligation to pay legal financial obligations (LFOs); or a combination of incarceration, community custody, and LFOs. Legal financial obligations can include victim restitution, crime victims' compensation fees, costs of defense, court appointed attorneys' fees, and fines.

Criminal sentencing in Washington underwent a significant change as a result of the Sentencing Reform Act of 1981 (SRA). Before the SRA, the Parole Board had discretion to determine, within a statutory maximum sentence, when a defendant was sufficiently rehabilitated to be released. The SRA replaced the prior sentencing structure with a determinate sentencing scheme.

A convicted felon's right to vote may be restored once his or her sentence has been discharged. This includes completion of all post-incarceration community supervision and payment of all financial obligations. Restoration of voting rights is accomplished as follows:

#### Convictions for Crimes Committed on or after July 1, 1984

For a person convicted of a crime committed on or after July 1, 1984, the Department of Corrections (DOC) notifies the sentencing court when the person has completed his or her sentence. Once the person has completed payment of his or her LFOs, the county clerk must then notify the sentencing court. Once the court receives adequate notification that the offender's sentence has been completed, the court then issues a certificate of discharge, which restores the civil rights of the person, including the right to vote. A copy of the certificate is also sent to the auditor for the county in which the offender was sentenced and to the DOC.

#### Convictions for Crimes Committed before July 1, 1984

For a person convicted of a crime committed before July 1, 1984, the Indeterminate Sentencing Review Board (Board) issues the certificate of discharge. The decision to issue a certificate is discretionary, and issuance may be denied if the Board finds that, despite completion of all sentence obligations including payment of all LFOs, discharge is not compatible with the best interests of society and the welfare of the paroled individual. The certificate is issued to the individual in person or by mail at his or her last known address.

#### Out of State Convictions

For persons convicted of out-of-state crimes, such persons may petition the Clemency and Pardons Board (Pardons Board), a board established within the office of the Governor, for restoration of his or her voting rights. The Pardons Board may recommend such restoration to the Governor.

#### Other Provisions

The Governor may grant pardons and restore civil rights to persons convicted of felonies, regardless of when the conviction occurred.

#### Voter Registration Database

Pursuant to the new voter registration database (VRDB) provisions, the Secretary of State (Secretary) will compare names and dates of birth with the Washington State Patrol's criminal history database. Matching information from that search will be compared to data from the Office of the Administrator for the Courts, the Indeterminate Sentence Review Board, and the Pardons Board to determine whether certificates of discharge or gubernatorial pardons have been granted.

If civil rights have been restored, the registration record is flagged to prevent future cancellations for the same felonies. If rights have not been restored, the person's registration

status is changed to "pending cancellation;" in those cases, a notification letter is sent stating that the person must contact the state county auditor within 30 days to request a hearing. If the person does not contact the auditor within 30 days, the registration is cancelled.

The work by the Secretary to update the VRDB as it relates to felons is scheduled to begin in March of 2006.

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### **Summary of Bill:**

A task force is created to study standards for restricting and restoring voting rights of felons. The task force consists of 16 members, including one representative from each of the following groups, appointed jointly by the President of the Senate and the Speaker of the House of Representatives:

- county auditors;
- the Association of Superior Court Judges;
- criminal defense attorneys;
- prosecuting attorneys;
- businesses or organizations that primarily serve multicultural or diversity interests;
- organizations with expertise and an interest in election reforms or voting rights issues;
- organizations that represent the interest of persons concerned with the effect of acquired immunodeficiency syndrome on multicultural communities; and
- organizations that have expertise in civil liberties.

The Secretary, or the Secretary's designee, and a representative of the DOC are also appointed to the task force. In addition, the President of the Senate will appoint one member from each of the two largest caucuses of the Senate, and the Speaker of the House of Representatives will appoint one member from each of the two largest caucuses of the House of Representatives.

The task force must review the following issues:

- the current system for determining how, when, and where former felons have their right to vote restored;
- the agencies and entities that are responsible for monitoring compliance with the various conditions of a felon's sentence; how the monitoring is performed and communicated to other agencies; how the data is maintained and updated; and the fiscal impact of such monitoring; and
- the need for establishing any changes and clearer standards as it relates to the current system of restricting and restoring felon voting rights and monitoring compliance with the conditions of a felon's sentence.

Legislative members and non-legislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses pursuant to statute. Expenses of the task force are paid jointly by the Senate and the House of Representatives. Staff support is provided by the Senate Committee Services and the House of Representatives Office of Program Research.

The task force may consult with individuals from the public and private sector or ask such individuals to establish an advisory committee. Findings and recommendations must be reported to the appropriate committees of the Legislature by October 30, 2006.

The task force is terminated on January 1, 2007.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) This is clearly a complex problem. In 2004, the election process included ballots cast by former felons who thought they had the right to vote but did not, and there were former felons who voted when they knew they should not have voted. As a result, our election was in jeopardy because of that confusion. We have been grappling with the issue of whether former felons should be voting for some time. In June 2005, the Secretary of State (Secretary) went on record to say that this is the issue of the election process, and we need to deal with this. The Secretary has been looking at this, and a major report was completed by his office during the last interim. The more we talk about the issue, the more questions we have. This issue really does require a study. There are some questions about who will be on the task force - county clerks have requested a presence on the task force, and the issue of membership on the task force is open for discussion. The study will bring some structure to the issue.

A person's right to vote should not be tied to his or her ability to make payments towards legal financial obligations. Obligations to victims should not be excused and should be paid to the injured person, but the two issues should not be tied to one another. Due to the changes made over the years to the sentencing laws, there are many layers and complexities that do not necessarily make sense. It is important that all the voices be heard. With our current system, any close election is at risk for challenges because of the uncertainty about who can and who cannot vote.

The Secretary of State supports the creation of this task force. In addition to the complex issues and problems already discussed is the challenge that all election officials face in administering an election. Someone from the Office of the Administrator of the Courts should be added to the task force, and the makeup of the task force should be balanced such that the final recommendations are credible.

(With concerns) Usually when this issue comes up, there are emotional issues and concerns surrounding victims of crimes and the legal financial obligations owed to the victims. The fear is that felons will be relieved of their obligations to the victims, and victims will be placed second to the concern for felons' voting rights. This study is a good place to start. Victims'

advocates do not take a position on the issue of former felons voting. Victims' advocates appreciate being included in, and look forward to participating in, the task force.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Darneille, prime sponsor; Shane Hamlin, Office of the Secretary of State; and Jennifer Shaw, American Civil Liberties Union.

(With concerns) Dave Johnson, Washington Coalition of Crime Victim Advocates.

**Persons Signed In To Testify But Not Testifying:** None.